

43. (Twice Amended) A method of treating a metastatic tumour which occurs in but does not originate from the central nervous system of a human which method comprises the step of administering to the said human an effective amount of an avirulent herpes simplex virus type 1 having a non-functional  $\gamma$ 34.5 gene, wherein the herpes simplex virus type 1 infects and replicates within the tumour cells of the tumour.

REMARKS

Reconsideration is requested.

Claims 43-58 are pending. Claims 52-58 have been canceled, without prejudice.

Upon entry of the above amendments, claims 43-51 will be pending.

The present Amendment is submitted with the attached RCE to assure entry and consideration of this Amendment and the attached. The Examiner is requested to contact the undersigned and/or issue a new non-final Office Action in the event anything further is required to place the application in condition for allowance.

The Examiner interview of October 17, 2001, is acknowledged, with appreciation. The claims have been amended in a manner which the undersigned believes was discussed with the Examiner during the interview. Specifically, claim 43 has been amended, for example, to specify that the recited HSV-1 is an avirulent virus. The claims have been amended to further describe the virus which is being administered in the claimed methods.

The amendments do not raise new issues requiring a further search and/or consideration. The amendments have been made to obviate, at a minimum, the Section 112, second paragraph, rejection of claims 43-58 by deleting the phrase